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C O N F I D E N T I A L SECTION 01 OF 02 ZAGREB 000726

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DEPARTMENT FOR EUR/SCE, S/WCI
THE HAGUE FOR OLC

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TAGS: [PREL](#) [PGOV](#) [KAWC](#) [ICTY](#) [HR](#)
SUBJECT: UPDATE ON POLICE RAIDS IN SEARCH OF ARTILLERY LOGS
FOR ICTY

REF: ZAGREB 724

Classified By: Chris Zimmer, Political Officer, for reasons 1.4 (b) and (d).

11. (C/NF) SUMMARY: Initial review of the more than 10,000 pages of documents seized in police raids on December 9 shows none of the documents are among the 23 sought by the Office of the Prosecutor (OTP) of the International Criminal Tribunal for the Former Yugoslavia (ICTY). General Gotovina's defense team is protesting the raids, claiming they violate Gotovina's right to a fair trial and are being directed by the OTP in order to gain access to defense plans.

ICTY's Zagreb representative believes the raids are a serious new effort to find the documents. He also claimed that Brammertz may be more willing than in the past to accept a credible investigation, even if the documents cannot be found. END SUMMARY.

12. (C) Croatian Police have announced that they have seized more than 10,000 pages of documents in the December 9 raids coordinated by the GoC's interagency Task Force searching for artillery documents sought by the OTP (reftel). Some of the documents seized are classified as "state secret" or "military secret," including 15 maps. In the search of more than 20 homes, apartments, and vehicles, police also discovered explosives and weapons and seized several computers. Twenty five people were questioned, including Marin Ivanovic, an employee of Gotovina's defense team. Police sources (protect) have told us that the initial review of the documents did not discover any which would respond to the OTP's list of 23 key artillery documents, but that an in-depth review is continuing. Our source also said that they are waiting for a court order before searching the computers they seized from Ivanovic.

13. (C) Gotovina's defense team, led by Luka Misetic and Greg Kehoe, protested the latest raids to the ICTY Trial Chamber, which has scheduled a hearing for December 11 to review the effect of the GoC's actions on the defense. ICTY's Zagreb representative, Thomas Osorio, told us that the central allegation is that OTP Prosecutor Brammertz instructed the GoC to raid defense offices (Ivanovic's office and home) in an effort to steal their confidential documents and strategies. According to press reports, Misetic claimed that Croatian State Prosecutor Bajic has admitted that Brammertz pressured him in a November 9 meeting to raid the defense's offices. Bajic's office has publicly denied Misetic's claims, noting that no meeting of senior officials was even held on November 9. Osorio described the defense's allegations as "slandorous." Osorio was confident that Judge Orie will not find any problem with the searches, since the GoC clearly has the legal grounds to conduct searches of Ivanovic's property. (NOTE: In a July 23, 2009, decision Orie denied the defense's earlier request for a restraining order against Croatia's prosecution of Ivanovic on the grounds that defense did not demonstrate that the GoC's domestic case

against Ivanovic for stealing and destroying state archive materials interfered with Gotovina's right to a fair trial. As a staff member of the defense, rather than accredited counsel, it is unclear what protections or immunities Ivanovic enjoys. END NOTE.)

¶4. (C) Gordan Markotic, Director for International Cooperation at the Ministry of Justice told us that the defense's arguments against the raid are based on "gossip" and the accusation that Brammertz instructed Bajic to perform the raids was "ridiculous." Both Markotic and Osorio said that the defense is very nervous because Ivanovic was a member of their team and the potential exists that the documents seized from his office and home could implicate the defense team in concealing documents from the court.

¶5. (C/NF) Osorio said that, in his personal opinion, the raids were a "real" and "serious" effort to find more evidence for the OTP, but that his office was still seeking more information about what was discovered. Osorio said that he has been urging Markotic to provide daily updates on news and activities of the task force. Osorio claimed that in recent weeks Brammertz had become somewhat less adamant that the only acceptable result would be for Croatia to deliver the 23 documents. Osorio said that, when briefing EU FMs in Brussels on December 7, Brammertz had indicated he could also be satisfied by a credible investigation.

¶6. (C/NF) COMMENT: Any shift by Brammertz toward accepting that a credible investigation might not be able to locate the documents would be significant. It will, therefore, be very telling how Brammertz reacts to the latest developments. An

ZAGREB 00000726 002 OF 002

early opportunity to gauge his response will be the Trial Chamber's December 16 hearing on whether Croatia is adequately responding to the Court's order of September 2008 regarding the artillery documents. END COMMENT.
FOLEY